

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

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ALL Districts

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §1.84 relating to Statutory Advisory Committees to be codified under Title 43, Texas Administrative Code, Part 1.

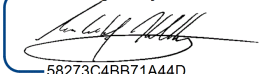
The preamble and the proposed amendments, attached to this minute order as Exhibits A and B, are incorporated by reference as though set forth verbatim in this minute order, except that they are subject to technical corrections and revisions, approved by the general counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the *Texas Register*.

IT IS THEREFORE ORDERED by the commission that the amendments to §1.84 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

The executive director is directed to take the necessary steps to implement the actions as ordered in this minute order, pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Submitted and reviewed by:

DocuSigned by:

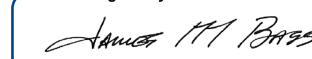


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Director, Maritime Division

Recommended by:

DocuSigned by:



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Executive Director

115772 June 25, 2020

Minute
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Proposed Preamble

The Texas Department of Transportation (department) proposes the amendments to §1.84, concerning Statutory Advisory Committees.

EXPLANATION OF PROPOSED AMENDMENTS

S.B No. 1959, 86th Regular Session, 2019, amended Transportation Code, Chapter 55, Funding of Port Security, Projects, and Studies, to clarify the duties of the Port Authority Advisory Committee (PAAC). Previously, Transportation Code, §55.007, required the PAAC to submit a biennial maritime port mission plan, while Transportation Code, §55.008, required the PAAC to submit a similar port capital program. The required content of the two reports was unclear but seemingly redundant. The statutory amendments clarified those requirements. The purpose of this rulemaking is to align the rules with the statutory changes.

Amendments to §1.84 specify that the PAAC is required to prepare, not later than December 1 of each even-numbered year, a single maritime port mission plan that conforms with the requirements of Transportation Code, §55.008, and submit the plan to the commission and to the governor, lieutenant governor, speaker of the house of representatives.

FISCAL NOTE

Brian Ragland, Chief Financial Officer, has determined, in accordance with Government Code, §2001.024(a)(4), that for each

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1 of the first five years in which the proposed rules are in
2 effect, there will be no fiscal implications for state or local
3 governments as a result of enforcing or administering the rules.
4

5 LOCAL EMPLOYMENT IMPACT STATEMENT

6 Geir-Eilif Kalhagen, Maritime Division Director, has determined
7 that there will be no significant impact on local economies or
8 overall employment as a result of enforcing or administering the
9 proposed rules and therefore, a local employment impact
10 statement is not required under Government Code, §2001.022.
11

12 PUBLIC BENEFIT

13 Mr. Kalhagen has determined, as required by Government Code,
14 §2001.024(a)(5), that for each year of the first five years in
15 which the proposed rules are in effect, the public benefit
16 anticipated as a result of enforcing or administering the rules
17 will provide a singular, more coherent review and assessment of
18 Texas' port system.
19

20 COSTS ON REGULATED PERSONS

21 Mr. Kalhagen has also determined, as required by Government
22 Code, §2001.024(a)(5), that for each year of that period there
23 are no anticipated economic costs for persons, including a state
24 agency, special district, or local government, required to
25 comply with the proposed rules and therefore, Government Code,
26 §2001.0045, does not apply to this rulemaking.
27

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ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

There will be no adverse economic effect on small business, micro-business, or rural communities, as defined by Government Code, §2006.001, and therefore, an economic impact statement and regulatory flexibility analysis are not required under Government Code, §2006.002.

GOVERNMENT GROWTH IMPACT STATEMENT

Mr. Kalhagen has considered the requirements of Government Code, §2001.0221 and has determined that for the first five years in which the proposed rules are in effect there is no impact on the growth of state government. He expects that during the first five years that the rule would be in effect:

(1) it would not create or eliminate a government program;

(2) its implementation would not require the creation of new employee positions or the elimination of existing employee positions;

(3) its implementation would not require an increase or decrease in future legislative appropriations to the agency;

(4) it would not require an increase or decrease in fees paid to the agency;

(5) it would not create a new regulation;

(6) it would not expand, limit, or repeal an existing regulation;

(7) it would not increase or decrease the number of individuals subject to its applicability; and

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(8) it would not positively or adversely affect this
state's economy.

TAKINGS IMPACT ASSESSMENT

Mr. Kalhagen has determined that a written takings impact
assessment is not required under Government Code, §2007.043.

SUBMITTAL OF COMMENTS

Written comments on the proposed amendments to §1.84 may be
submitted to Rule Comments, General Counsel Division, Texas
Department of Transportation, 125 East 11th Street, Austin,
Texas 78701-2483 or to RuleComments@txdot.gov with the subject
line "PAAC Reporting Rules." The deadline for receipt of
comments is 5:00 p.m. on August 10, 2020. In accordance with
Transportation Code, §201.811(a)(5), a person who submits
comments must disclose, in writing with the comments, whether
the person does business with the department, may benefit
monetarily from the proposed amendments, or is an employee of
the department.

STATUTORY AUTHORITY

The amendments are proposed under Transportation Code, §201.101,
which provides the Texas Transportation Commission (commission)
with the authority to establish rules for the conduct of the
work of the department, and more specifically, Transportation
Code, §55.009, which requires the commission to adopt rules to
implement Transportation Code, Chapter 55, and Transportation

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1 Code, §201.117, which requires the commission to determine the
2 duties of its advisory committees.

3

4 CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

5 Transportation Code, §55.007 and §55.008.

SUBCHAPTER F. ADVISORY COMMITTEES

§1.84. Statutory Advisory Committees.

(a) Aviation Advisory Committee.

(1) Purpose. Created pursuant to Transportation Code, §21.003, the Aviation Advisory Committee provides a direct link for general aviation users' input into the Texas Airport System. The committee provides a forum for exchange of information concerning the users' view of the needs and requirements for the economic development of the aviation system. The members of the committee are an avenue for interested parties to utilize to voice their concerns and have that data conveyed for action for system improvement. Additionally, committee members are representatives of the department and its Aviation Division, able to furnish data on resources available to the Texas aviation users.

(2) Membership. The commission will appoint nine members to staggered terms of three years with three members' terms expiring August 31 of each year. A majority of the members of the committee must have five years of successful experience as an aircraft pilot, an aircraft facilities manager, or a fixed-base operator. A member may not serve more than three consecutive terms on the committee.

(3) Duties. The committee shall:

(A) periodically review the adopted capital improvement program;

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(B) advise the commission on the preparation and adoption of an aviation facilities development program;

(C) advise the commission on the establishment and maintenance of a method for determining priorities among locations and projects to receive state financial assistance for aviation facility development;

(D) advise the commission on the preparation and update of a multi-year aviation facilities capital improvement program; and

(E) perform other duties as determined by order of the commission.

(4) Meetings. The committee shall meet once a calendar year and such other times as requested by the Aviation Division Director.

(5) Rulemaking. Section 1.83 of this subchapter (relating to Rulemaking) does not apply to the Aviation Advisory Committee.

(b) Public Transportation Advisory Committee.

(1) Purpose. Created pursuant to Transportation Code, §455.004, the Public Transportation Advisory Committee provides a forum for the exchange of information between the department, the commission, and committee members representing the transit industry and the general public. Advice and recommendations expressed by the committee provide the department and the commission with a broader perspective regarding public

NOTE: Additions underlined

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1 transportation matters that will be considered in formulating
2 department policies.

3 (2) Membership. Members of the Public Transportation
4 Advisory Committee shall be appointed and shall serve pursuant
5 to Transportation Code, §455.004.

6 (3) Duties. The committee shall:

7 (A) advise the commission on the needs and
8 problems of the state's public transportation providers,
9 including recommending methods for allocating state public
10 transportation funds if the allocation methodology is not
11 specified by statute;

12 (B) comment on proposed rules or rule changes
13 involving public transportation matters during their development
14 and prior to final adoption unless an emergency requires
15 immediate action by the commission;

16 (C) advise the commission on the implementation
17 of Transportation Code, Chapter 461; and

18 (D) perform other duties as determined by order
19 of the commission.

20 (4) Meetings. The committee shall meet as requested
21 by the commission or the division designated under §1.82(f) of
22 this subchapter (relating to Statutory Advisory Committee
23 Operations and Procedures).

24 (5) Public transportation technical committees.

25 (A) The Public Transportation Advisory Committee
26 may appoint one or more technical committees to advise it on

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1 specific issues, such as vehicle specifications, funding
2 allocation methodologies, training and technical assistance
3 programs, and level of service planning.

4 (B) A technical committee shall report any
5 findings and recommendations to the Public Transportation
6 Advisory Committee.

7 (c) Port Authority Advisory Committee.

8 (1) Purpose. Created pursuant to Transportation Code,
9 §55.006, the purpose of the Port Authority Advisory Committee is
10 to provide a forum for the exchange of information between the
11 commission, the department, and committee members representing
12 the maritime port industry in Texas and others who have an
13 interest in maritime ports. The committee's advice and
14 recommendations will provide the commission and the department
15 with a broad perspective regarding maritime ports and
16 transportation-related matters to be considered in formulating
17 department policies concerning the Texas maritime port system.

18 (2) Membership. Members shall be appointed pursuant
19 to Transportation Code, §55.006. Members appointed by the
20 commission serve staggered three-year terms unless removed
21 sooner at the discretion of the commission.

22 (3) Duties. The committee shall:

23 (A) prepare a maritime port mission plan, in
24 accordance with Transportation Code, §55.008 and submit the plan
25 to the governor, lieutenant governor, speaker of the house of

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1 representatives and commission not later than December 1 of each
2 even-numbered year;

3 (B) review each project eligible to be funded
4 under Transportation Code, Chapter 55, and make recommendations
5 for approval or disapproval to the department; and

6 (C) advise the commission and the department on
7 matters relating to port authorities[~~;~~ ~~and~~]

8 [~~(D) not later than December 1 of each even-~~
9 ~~numbered year;~~]

10 [~~(i) prepare and submit a report on Texas~~
11 ~~maritime ports, in accordance with Transportation Code, §55.007,~~
12 ~~subsections (a)(3) and (b);~~]

13 [~~(ii) prepare and submit a port capital~~
14 ~~program, in accordance with Transportation Code, §55.008].~~

15 (4) Meeting. The committee shall meet at least
16 semiannually and such other times as requested by the
17 commission, the executive director, or the executive director's
18 designee. The chair may request the department to call a
19 meeting.

20 (d) Border Trade Advisory Committee.

21 (1) Purpose. Created pursuant to Transportation Code,
22 §201.114, the Border Trade Advisory Committee provides a forum
23 for the exchange of communications among the commission, the
24 department, the governor, and committee members representing
25 border trade interests. The committee's advice and
26 recommendations will provide the governor, the commission, and

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1 the department with a broad perspective regarding the effect of
2 transportation choices on border trade in general and on
3 particular communities. The members of the committee also
4 provide an avenue for interested parties to express opinions
5 with regard to border trade issues.

6 (2) Membership. The border commerce coordinator
7 designated under Government Code, §772.010, shall serve as the
8 chair of the committee. The commission will appoint the other
9 members of the committee in accordance with Transportation Code,
10 §201.114. The commission will appoint members to staggered
11 three-year terms expiring on August 31 of each year, except that
12 the commission may establish terms of less than three years for
13 some members in order to stagger terms.

14 (3) Duties. The committee shall:

15 (A) define and develop a strategy for identifying
16 and addressing the highest priority border trade transportation
17 challenges;

18 (B) make recommendations to the commission
19 regarding ways in which to address the highest priority border
20 trade transportation challenges;

21 (C) advise the commission on methods for
22 determining priorities among competing projects affecting border
23 trade; and

24 (D) perform other duties as determined by the
25 commission, the executive director, or the executive director's
26 designee.

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1 (4) Meetings. The committee shall meet at least once
2 a calendar year. The dates and times of meetings shall be set
3 by the committee. The committee shall also meet at the request
4 of the department.

5 (5) Rulemaking. Sections 1.82(i) and 1.83 of this
6 subchapter do not apply to the Border Trade Advisory Committee.